## EXHIBIT 68

```
UNITED STATES DISTRICT COURT
1
2
            FOR THE NORTHERN DISTRICT OF OHIO
3
                   EASTERN DIVISION
5
    _____x
    IN RE: NATIONAL PRESCRIPTION ) Case No.
6
7
   OPIATE LITIGATION ) 1:17-MD-2804
                         ) Hon. Dan A. Polster
    APPLIES TO ALL CASES
8
9
    ----X
10
11
12
         VIDEOTAPED DEPOSITION OF GARY L. BOGGS
13
                   WASHINGTON, D.C.
14
              THURSDAY, JANUARY 17, 2019
15
                     9:07 A.M.
16
17
18
19
20
21
22
23
   Pages: 1 - 429
24
    Reported by: Leslie A. Todd
```

```
1
          A I do not.
                And then it goes on to say:
                                             "'We have
2
    to investigate things in a different manner than a
3
    company that can act on a suspicious order.
4
    have to meet constitutional and legal
5
    requirements. They don't have to sell to
6
7
    someone, 'Boggs said. 'They have a moral
    obligation as keepers of powerful and dangerous
8
    substances to make sure those substances are used
9
10
    for legitimate medical purposes.'"
                Do you have any reason to dispute having
11
    made those statements?
12
                I do not.
13
           Α
                Looking at the context of these
14
    statements and in terms of what this article is
15
    reported to be about, would it be fair to say that
16
17
    you as a DEA agent at the time were expressing
18
    dissatisfaction or frustration with certain
    distributors as to their failure to maintain
19
    effective controls to prevent the diversion of
20
    controlled substances?
21
22
                MR. STANNER: Object to the form.
23
                MR. SATIN: And I -- objection.
     objecting pursuant to Touhy.
24
```

- I don't quite understand the question.
- 2 You can ask him about what he said but not why he
- 3 said it or what was going on at DEA at the time
- 4 that may have informed this statement.
- MR. HAWAL: Counsel, this -- this is --
- 6 he clearly made a public statement, and I believe
- 7 that the Touhy requirements allow me to explore
- 8 the circumstances of this public statement. I
- 9 don't understand how you can object in the context
- of what he says here.
- MR. SATIN: So I -- I had a conversation
- 12 with the AUSA, Mr. Bennett, on this subject, and
- while it's permissible to ask about the fact of
- 14 those public statements, but what is behind those
- statements, the circumstances, the motives, the
- background material, that is off-limits. That's
- an issue you'll have to take up with the
- 18 government.
- MS. KASWAN: We've been going guite a
- 20 while. Can we take a break?
- MR. STANNER: The witness is fine, so
- we're happy to keep going. Obviously, people
- 23 should feel free to use the restroom.
- MS. KASWAN: I could use a break.

```
THE VIDEOGRAPHER: The time is
1
    11:24 a.m. We're going off the record.
2
                (Recess.)
3
                THE VIDEOGRAPHER: The time is
    11:41 a.m., and we're back on the record.
5
6
    BY MR. HAWAL:
          0
               Mr. Boggs, continuing on with the
    USA Today article that we've been discussing,
8
9
    there's another statement that is attributable to
    you, and it says: "'You can have the ostrich
10
11
    approach. You can stick your head in the sand and
12
    ignore blatant signs, ' Boggs said."
13
                And then it goes on to say: "This
    company is sitting in a state that has been the
14
15
    epicenter of the problem. It's no secret that the
16
    drug of choice is oxycodone. I don't think you
17
    have to be that strong of an investigator to put
18
    two and two together, " close quote.
19
                Are those statements that you would have
20
    made?
21
               MR. STANNER: Object to the form of the
22
    question, the word "attributable."
                THE WITNESS: I -- I believe that
23
24
    they're correct, yes.
```

```
BY MR. HAWAL:
 1
 2
                Were these -- were these the kinds of
    statements that are attributive -- attributed to
 3
 4
    you in this article that you would have been
 5
    generally making during this frame?
 6
                MR. STANNER: Object to the form of the
 7
    question.
    BY MR. HAWAL:
 8
 9
           Q
                In 2012.
10
                MR. STANNER: Same objection.
11
                THE WITNESS: I don't know that I
12
    understand your question when you say --
13
    BY MR. HAWAL:
14
                Well --
           0
15
                -- "generally making."
16
                Well, were these the kinds of statements
17
    that you were generally making to individuals who
18
    would have been inquiring about the opioid crisis
19
    and certain distributors not living up to their
20
    obligations under federal regulations?
21
                MR. SATIN: Counsel, I'm sorry to
22
    interrupt. Are you asking about statements he was
    making --
23
24
                MR. HAWAL: In the public domain.
```

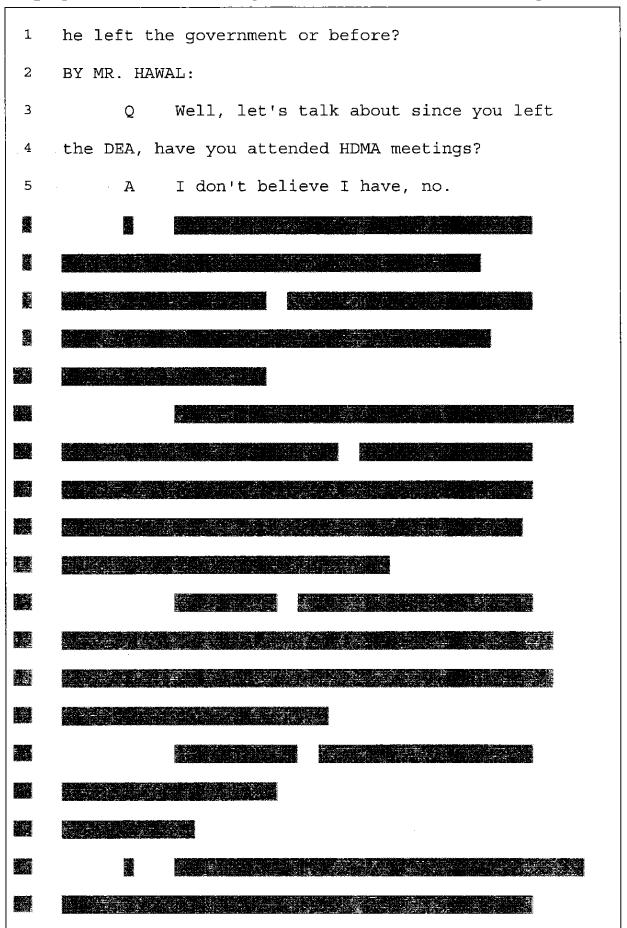
1 MR. SATIN: -- in the public domain? 2 MR. HAWAL: Yes, sir. 3 THE WITNESS: This is a statement I made in this particular article. I don't recall every 4 5 statement that I made during that time frame. BY MR. HAWAL: 6 7 Let me ask you this: When you left DEA, 0 8 did you get some type of clearance from the DEA to 9 qo work for McKesson? I believe that I was interviewed by 10 11 McKesson counsel on -- on that. 12 Q Well, I'm not so concerned about 13 McKesson's counsel. But did you seek clearance 14 from the DEA to go work for a distributor? 15 Α I don't recall doing that, no. So you don't have any type of written 16 agreement with the DEA that allowed you to go work 17 18 for McKesson? 19 I do not. 20 Okay. So as far as you know, there were 0 21 no restrictions placed upon you by the DEA as to what you could or could not communicate with 22 McKesson about as it relates to your pre, or --23 prior employment with the DEA? 24

```
1
                MR. STANNER: Object to the form of the
 2
    question.
 3
                THE WITNESS: I don't have any
 4
    restrictions that I'm aware of, no, other than
5
    what we're talking about today.
6
                MR. STANNER: Mr. Hawal, I think someone
    on the phone is complaining about the microphones.
7
8
                Can the people on the phone hear us?
9
                (UNIDENTIFIED SPEAKER): It sounds like
10
    the mics have been turned down a little bit.
11
    don't know if there's a way to adjust the volume.
12
    We were fine before the break.
13
                MR. STANNER: I think we just tried to
14
    do that. Has there -- have you -- have you
15
    noticed any change? We just tried -- we just
    changed the volume.
16
17
                (UNIDENTIFIED SPEAKER): No, not yet.
18
                THE VIDEOGRAPHER: Do you hear anything
19
    better now?
20
                (UNIDENTIFIED SPEAKER): Yes.
21
    better.
             Thank you.
22
                MR. STANNER: Great.
                                      If people on the
23
    phone could mute their phones, that would be very
24
    helpful.
              Thanks.
```

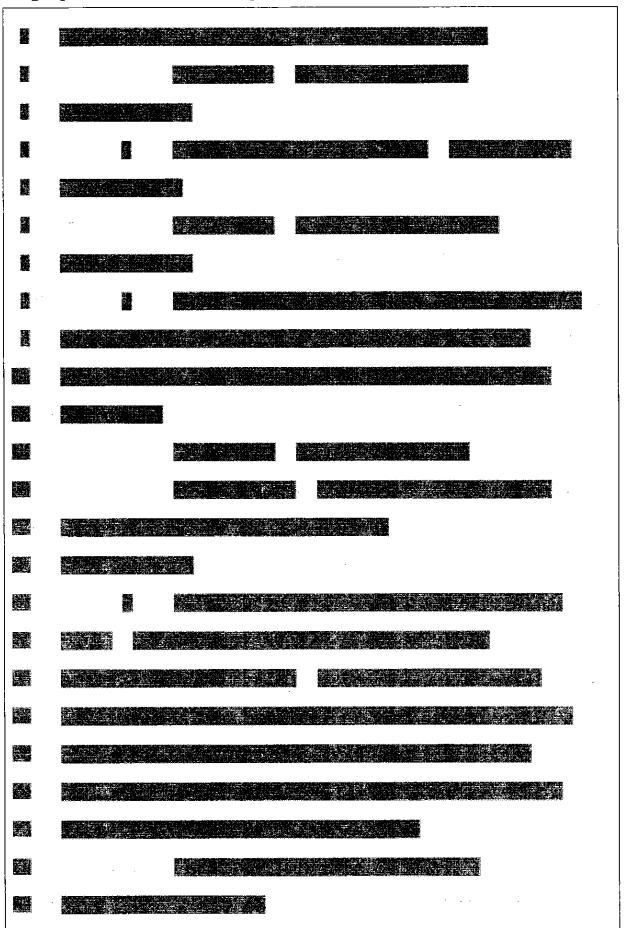
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1
                (Plaintiffs' Exhibit No. 7 was
 2
                marked for identification.)
 3
    BY MR. HAWAL:
 4
           Q
                Mr. Boggs, I'm handing you what has been
 5
    marked as Plaintiffs' Exhibit 7, which is a
 6
    different article but also from 2012. And this
 7
    was published in Bloomberg Businessweek.
                                               The
 8
    title of the article is "American Pain: The
 9
    Largest U.S. Pill Mill's Rise and Fall." "There
10
    were 335 million prescriptions for painkillers
11
    written in 2011. Is it any wonder some of them
12
    were from criminals?"
13
                And my question is, do you recall being
14
    interviewed by someone from Bloomberg Businessweek
15
    at or around this time where you made certain
16
    statements that were -- that appeared in this
17
    article?
18
          Α
                I do not.
19
                I'm going to put on the screen a
20
    paragraph that has certain statements that are
21
    attributable to you. And it says: "Gary Boggs,
22
    Special Agent with the DEA's Office of Diversion
23
    Control says, 'The cases that the DEA has brought
24
    in recent years involved wholesalers knowingly
```

```
1
    making enormous sales to customers that were
    per se in violation of DEA rules. The notion put
 2
 3
    out by HDMA that somehow or another the DEA is not
    providing essential information to them is simply
    not accurate,' says Boggs. 'It's a smoke screen.
 5
     It's a step out of desperation.'"
 6
 7
                Do you remember making such statements
     in 2012?
 8
 9
                MR. STANNER: Object to the form,
10
    compound. Vague if you're referring to the
11
    quotation on the preceding sentence.
12
                MR. HAWAL: Yes.
    BY MR. HAWAL:
13
14
               Do you -- do you remember making such
15
    statement?
16
                MR. HAWAL: I'm sorry?
17
                MR. STANNER: I'm sorry, you said,
18
     "Yes." Do you mean -- are you referring just to
    the quotation --
19
20
                MR. HAWAL: Yes.
21
                MR. STANNER: -- or to the entire --
22
                MR. HAWAL: Yeah, quotations.
23
                THE WITNESS: I -- I don't recall making
24
     them.
```

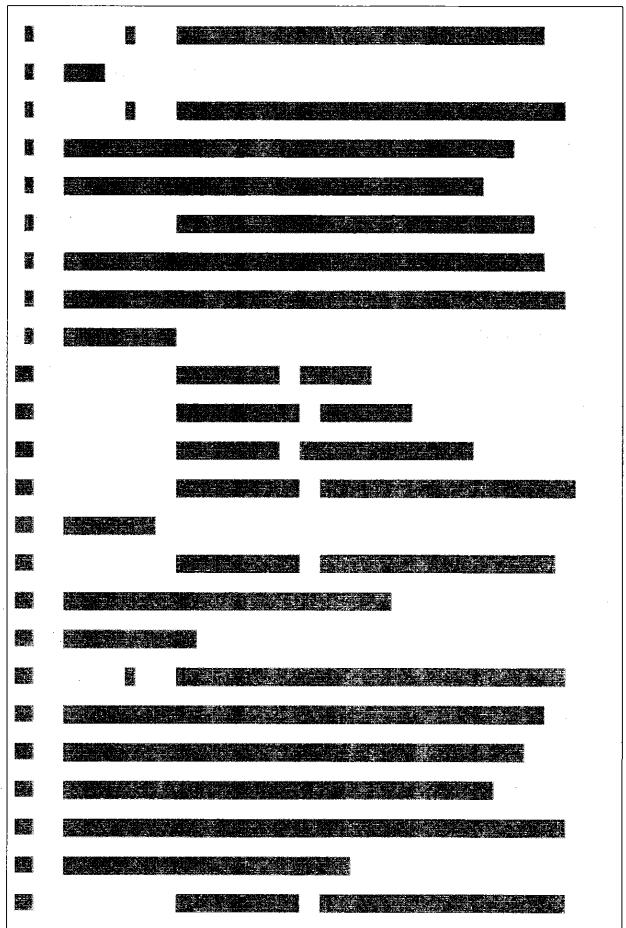
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BY MR. HAWAL:
1
2
                Were these statements that were
3
    consistent with statements that you would have
    been making at that time in the public domain?
4
5
                It appears a statement that I made for
 6
    this article.
 7
                Okav.
                       And in -- in June of 2012, were
           0
8
    you still a DEA employee or had you retired as of
9
    that time?
10
                I retired at the end of that month.
           Α
                Okay. I'm going to hand you another
11
           Q
               I think we're at Exhibit 8.
12
    exhibit.
                (Plaintiffs' Exhibit No. 8 was
13
                marked for identification.)
14
15
    BY MR. HAWAL:
16
                With regard to the statement that was in
    the Bloomberg publication, you referred to HDMA.
17
18
    HDMA is the trade association for pharmaceutical
    wholesalers like McKesson and Cardinal and
19
20
    AmerisourceBergen?
21
                It was formerly HDA -- or HDMA.
           Α
                                                  Now
     it's HDA. Yes, it is.
22
                And you have attended HDMA meetings?
23
           Q
                MR. SATIN: Are you asking about since
24
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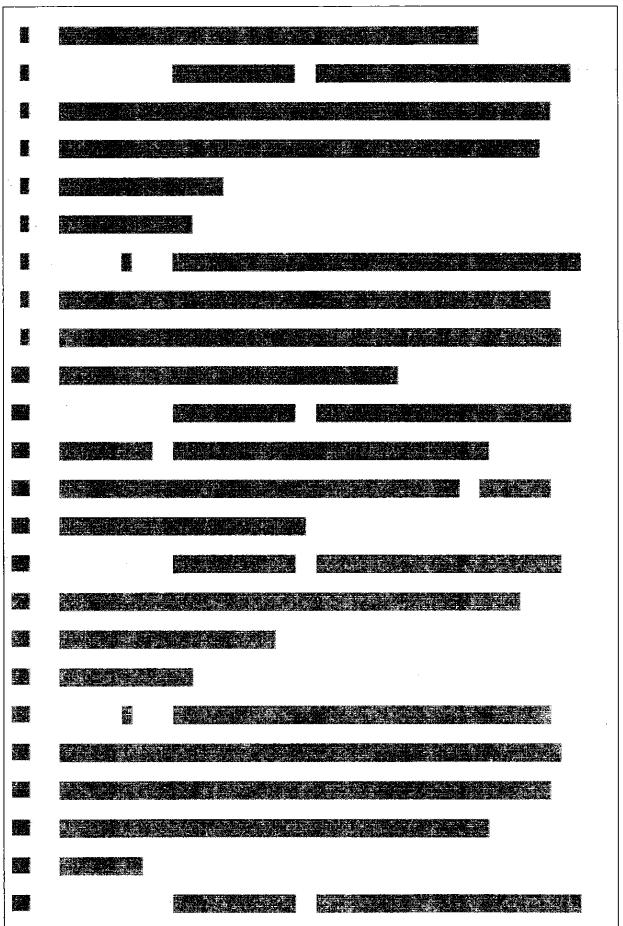
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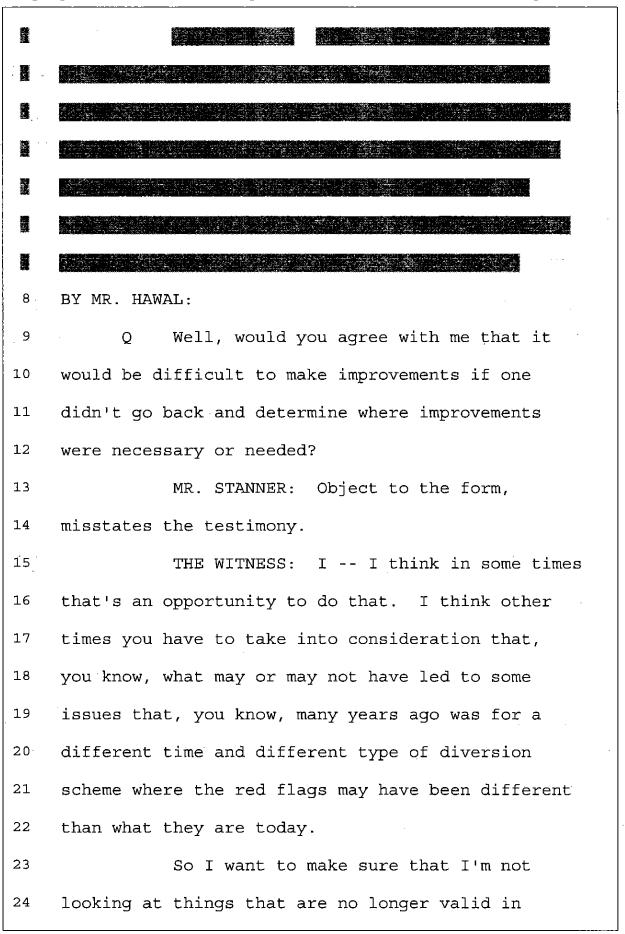


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today's environment, so I'm looking more forward 2 and what is today's thread, if you will, of 3 diversion, and how best that we can identify that. 4 Not necessarily looking retrospective to schemes that are no longer a relevant factor. BY MR. HAWAL: 7 Q Well, you would agree generally that if 8 one doesn't look at past mistakes, one won't learn 9 from their past mistakes. Is that true? 10 MR. STANNER: Object to the form of the 11 question 12 THE WITNESS: I think that that's generally a -- a solid thing. 13 (Plaintiffs' Exhibit No. 9 was 14 15 marked for identification.) 16 MR. HAWAL: Evan, 880. BY MR. HAWAL: 17 18 Mr. Boggs, I've handed you what has been Q 19 marked as Plaintiffs' Exhibit 9, bearing Bates 20 stamp MCK-AGMS-0060000880. 

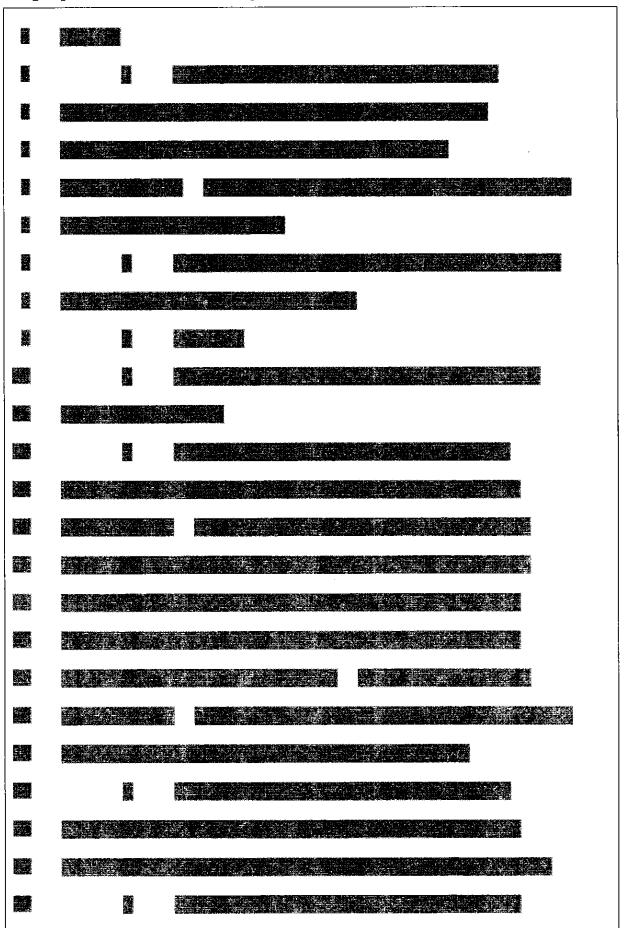
Do you recall this PowerPoint 1 presentation? 2 3 Α I do. Did you have a chance to review this 4 Q 5 when you were preparing for this deposition with 6 your counsel? 7 Α I --MR. STANNER: Objection to the extent it 8 9 calls for privileged information. 10 BY MR. HAWAL: Did you review this? 11 Q I've looked at this document, yes. 12 Α 13 As part of your preparation for this deposition? 14 I did. 15 Α 16 And this was prepared -- what does 17 "Olive Branch" mean? 18 Α Olive Branch is where the McKesson's national redistribution center is. It's Olive 19 20 Branch, Mississippi. 21 Okay. And this would have been prepared 0 22 after you left the DEA? 23 Α It would. 24 Did it contain information that you

- would have learned or become aware of when you 1 worked for the DEA? 2 3 Α It did. It does. Did you seek and obtain any clearance 4 5 from the DEA to make this presentation or put this material together? 6 7 Α I did not. Now, when you reviewed this PowerPoint 9 presentation, did it appear to you to be correct 10 and accurate? Was there anything -- or was there anything that stood out as being inaccurate or 11 12 that you deemed required correction? 13 Α I --14 MR. STANNER: You're asking -- I'm 15 sorry, Counsel, you're asking at the time it was prepared or since then? 16 17 MR. HAWAL: No, when you -- when he 18 reviewed it in preparation for his deposition. 19 MR. STANNER: My mistake. 20 THE WITNESS: When I reviewed it, it 21 appeared to be an accurate representation of the
- 23 BY MR. HAWAL:

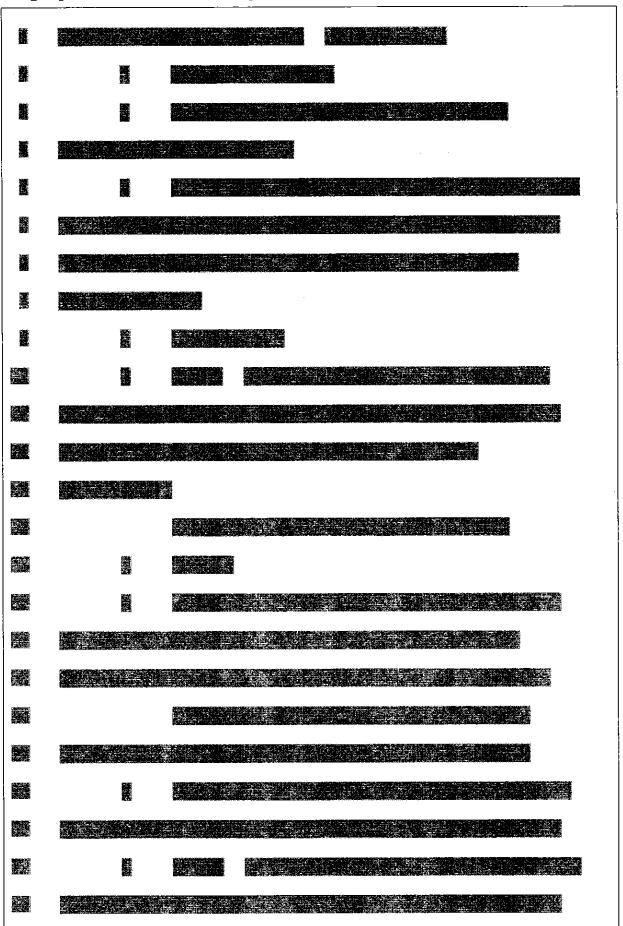
22

presentation that I gave.

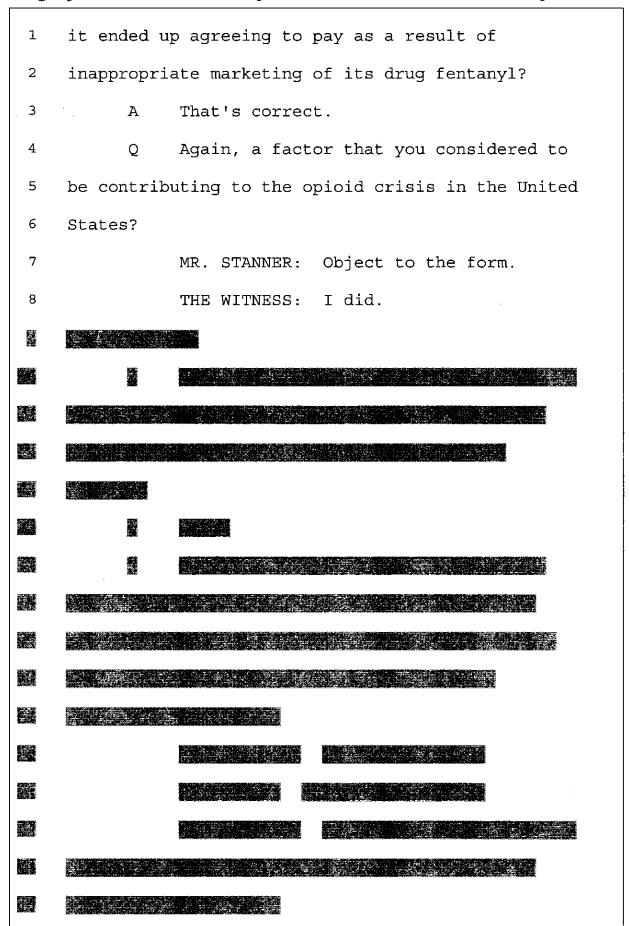
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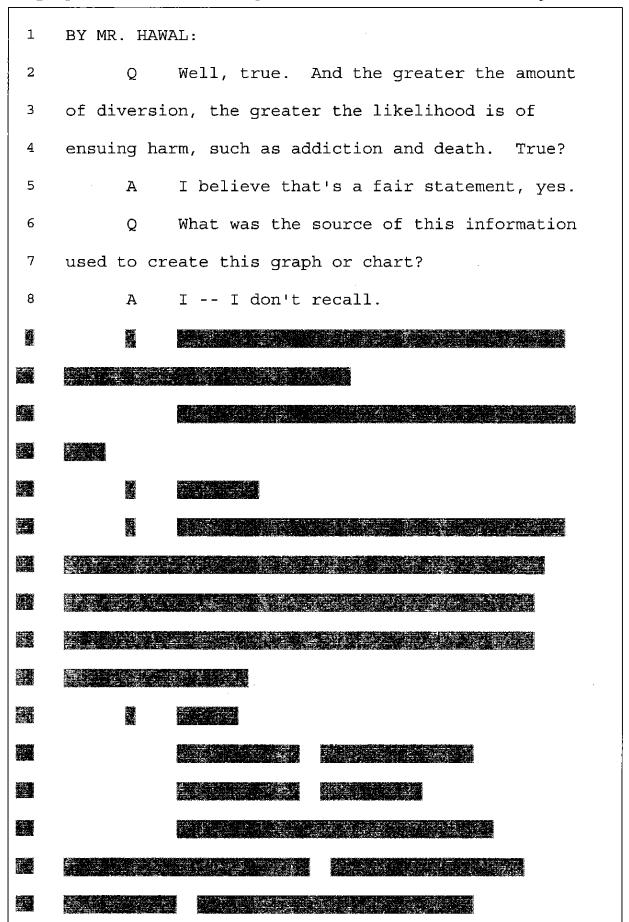
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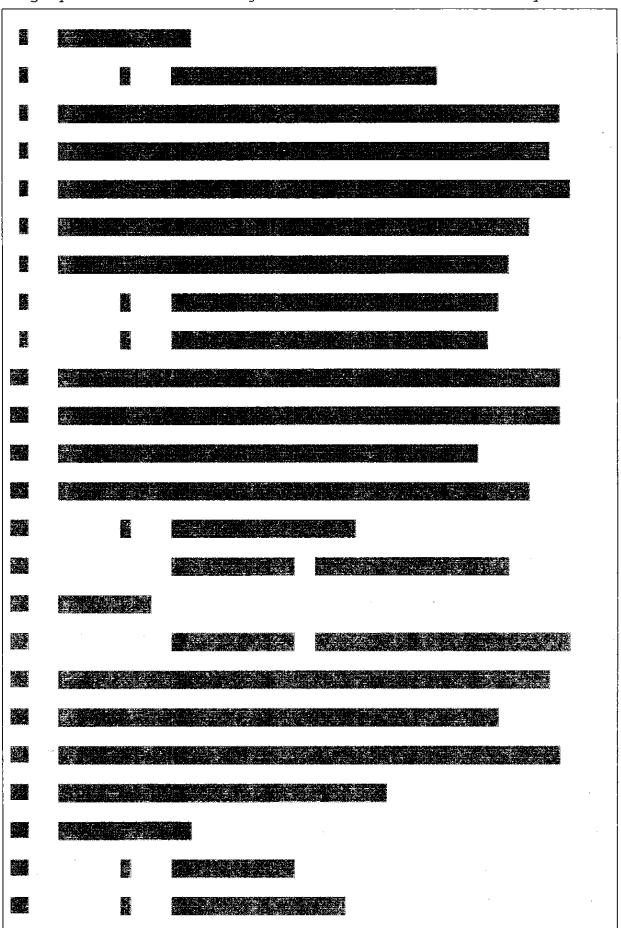
- 1 use of prescription painkillers."
- What did you mean by that statement?
- A What I meant by that statement, which is
  - 4 reflected in the -- the next slide, is an example
  - 5 of a manufacturer who was involved in an
  - 6 investigation or a settlement with the government
  - 7 that was about the false or misleading of
  - 8 OxyContin, which was specifically to Purdue
  - 9 Pharma.
- 10 Q And the next page references Purdue
- 11 Pharma in a \$635 million fine that was imposed on
- 12 Purdue for misleading advertising about its
- 13 OxyContin product?
- 14 A That's correct.
- Q And you -- you consider that to be one
- of the causes of the opioid crisis in the United
- 17 States?
- MR. STANNER: Object to the form of the
- 19 question.
- 20 THE WITNESS: I think it has a
- 21 contributing factor, yes.
- 22 BY MR. HAWAL:
- 23 Q And then the next page, you reference a
- company, Cephalon, in a \$425 million fine, which



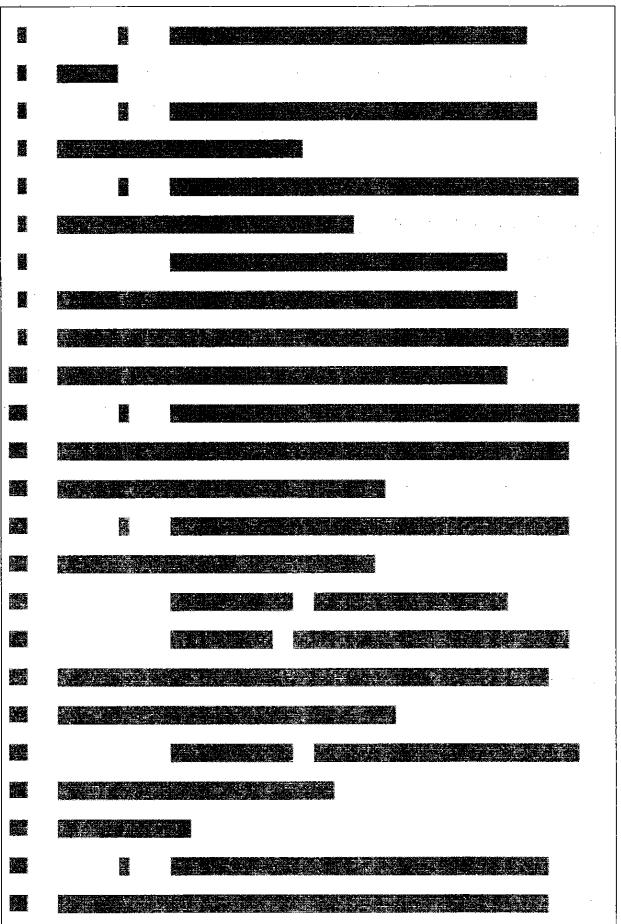
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BY MR. HAWAL:
5.
                So are you saying that you do not agree
6
    that as greater amounts of opioid pills are
7
    diverted into the illicit marketplace, that the
    probability is that the number of addictions and
    deaths will increase?
9
10
               MR. STANNER: Same -- same objection.
11
    think it --
12
                MR. HAWAL: I understand. All you have
    to do is say, "Objection," Andrew.
13
14
                MR. STANNER: Okay.
15
                MR. HAWAL: That would be appreciated,
16
    because the rules require no speaking objections.
17
                MR. STANNER: I'm just trying to be
18
    helpful.
    BY MR. HAWAL:
19
20
                Sir?
          0
21
               MR. HAWAL: I understand. Thank you.
22
                THE WITNESS: I -- I think there is a
    correlation between diversion and -- and
23
24
    associated problems with diversion.
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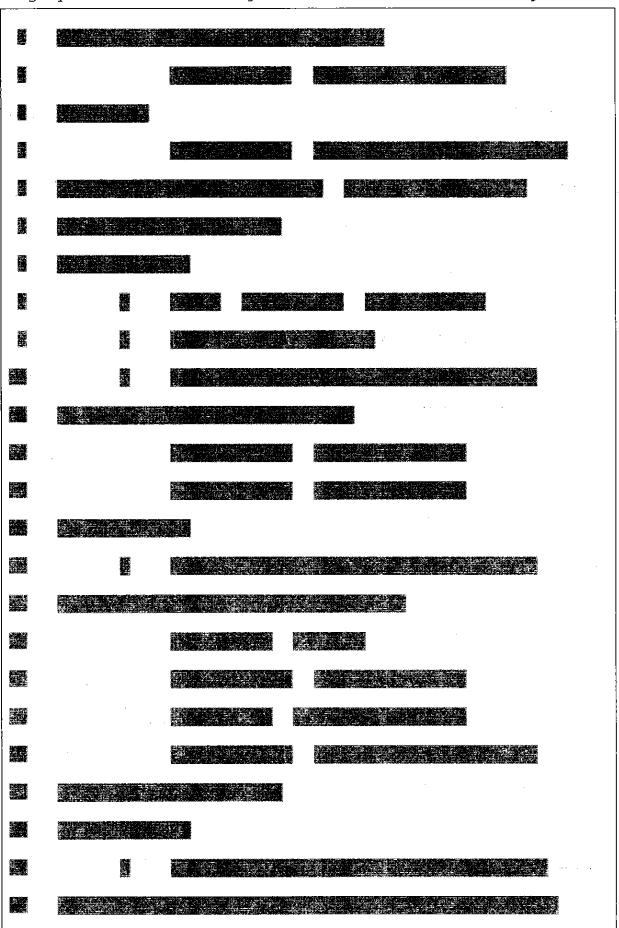
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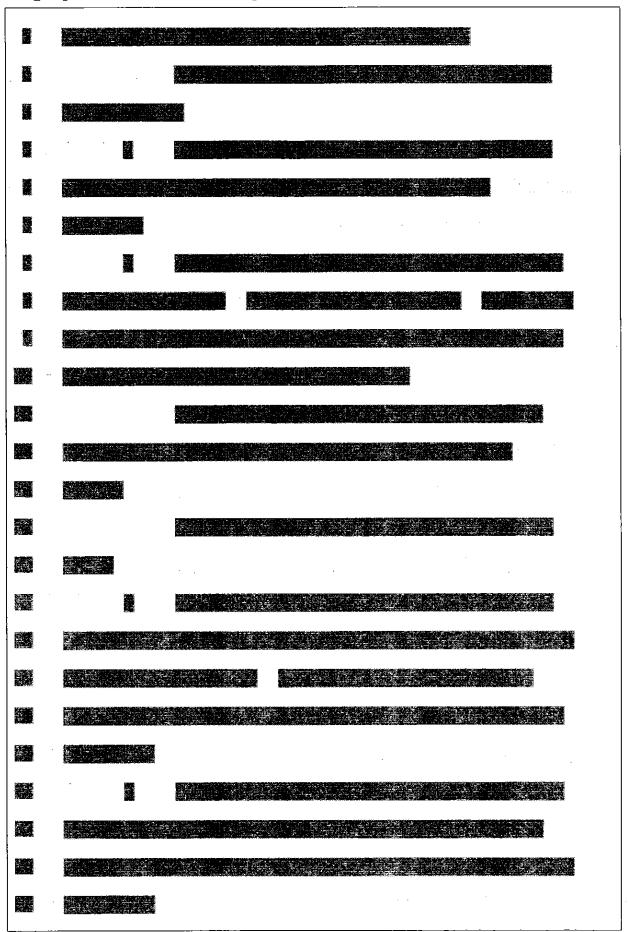
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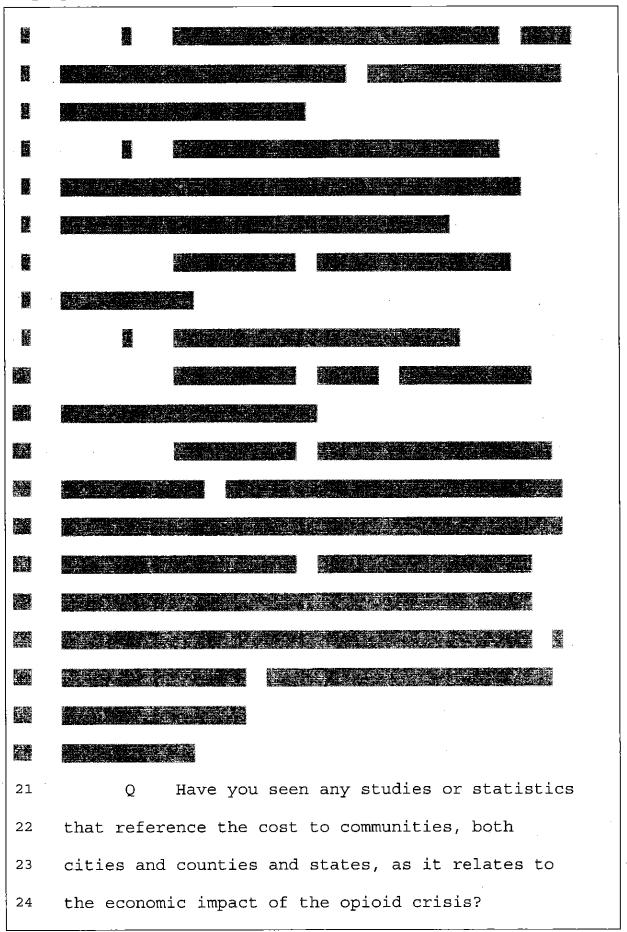
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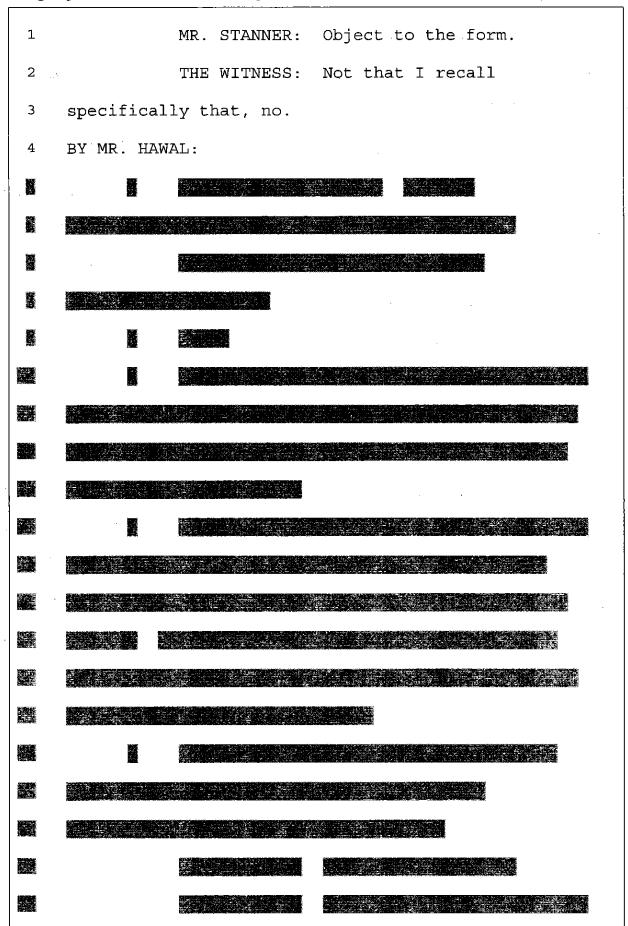


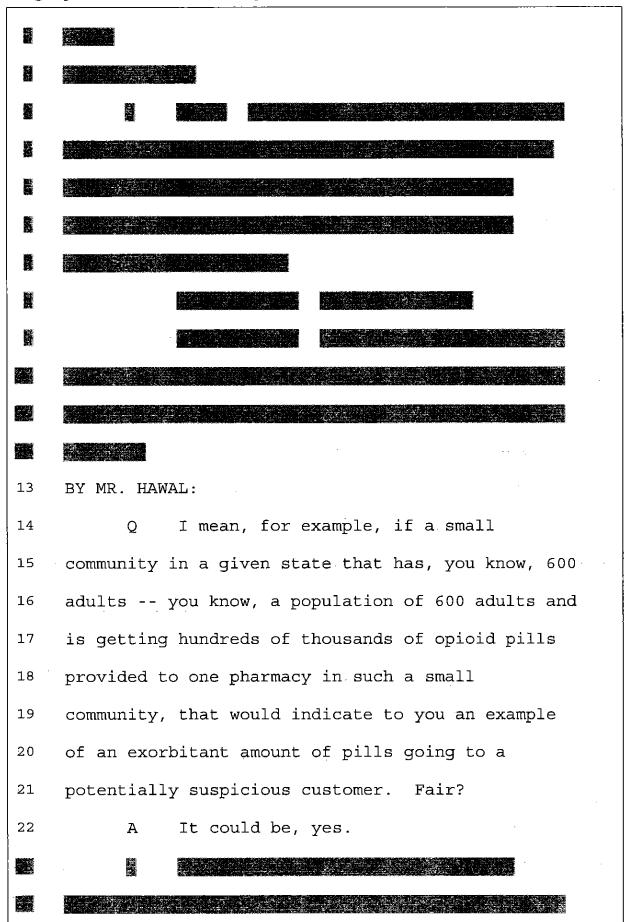
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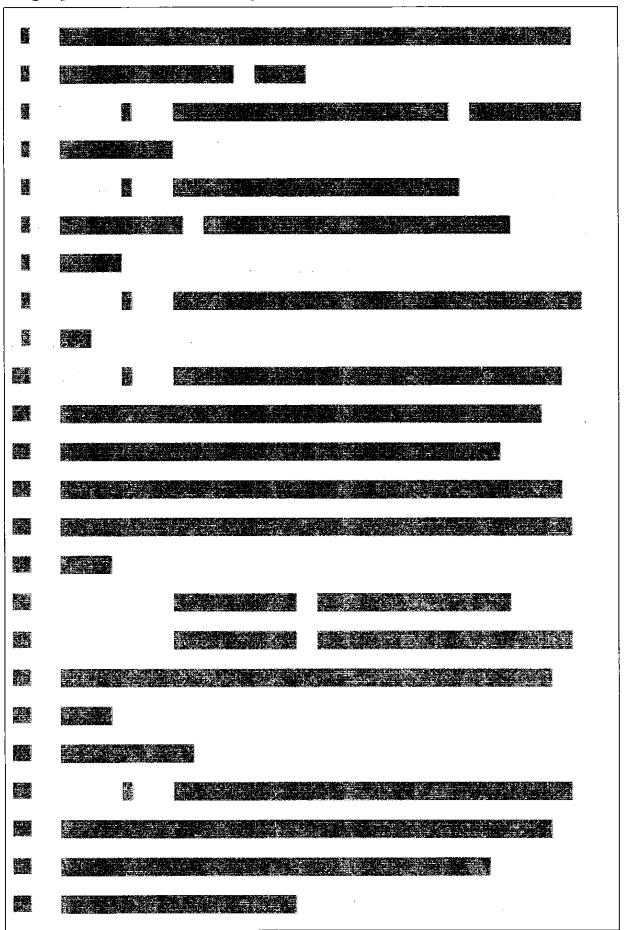
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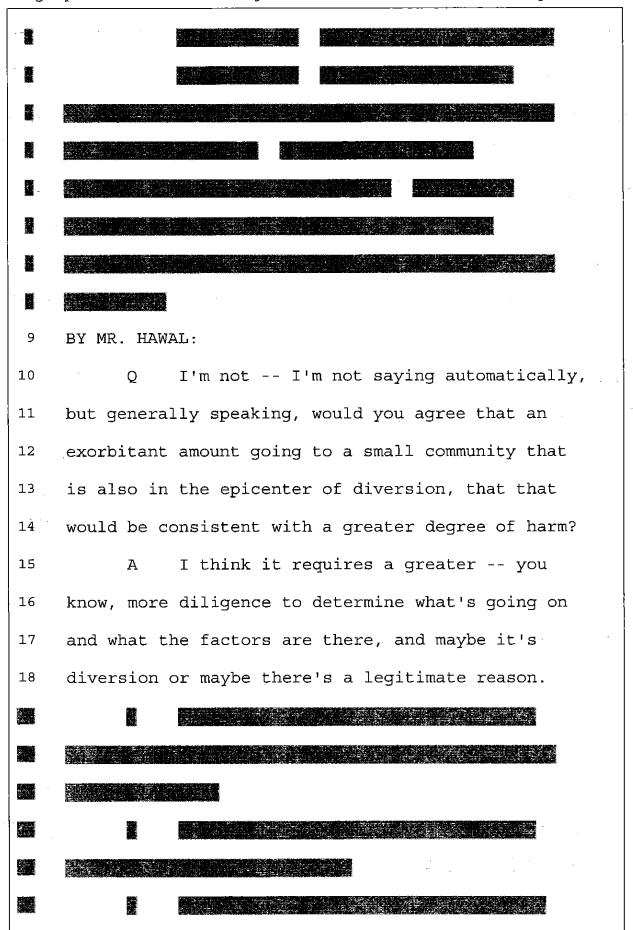




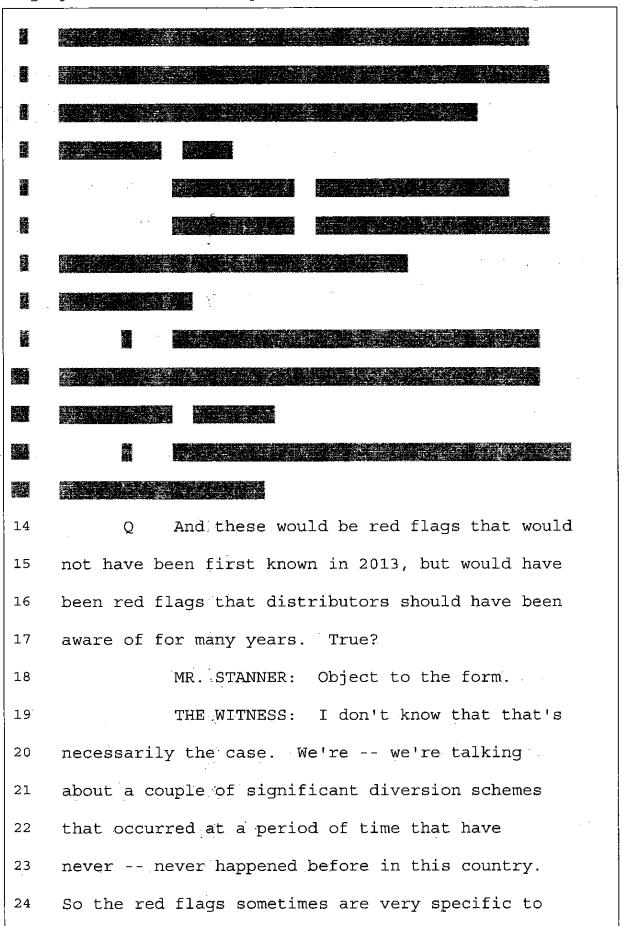


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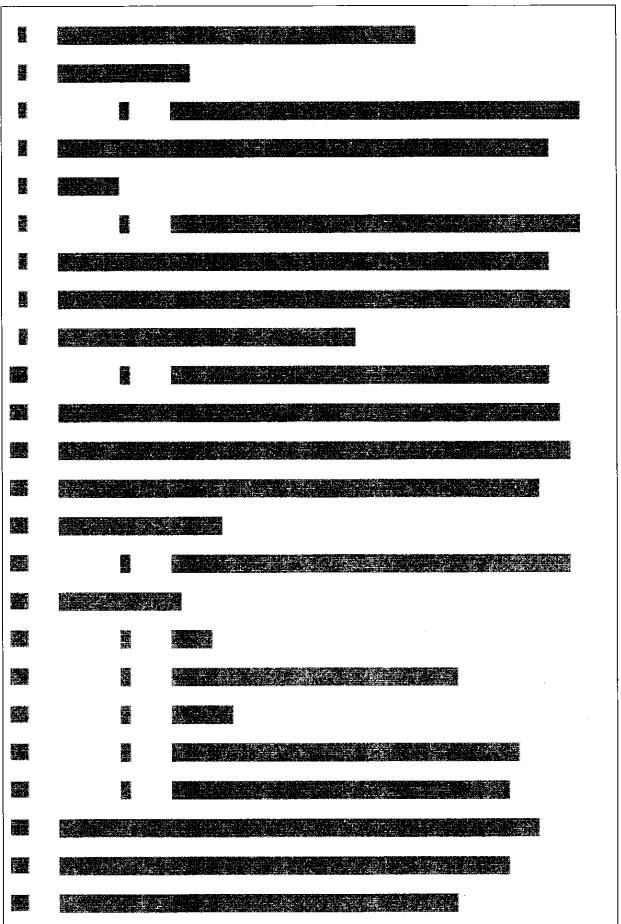
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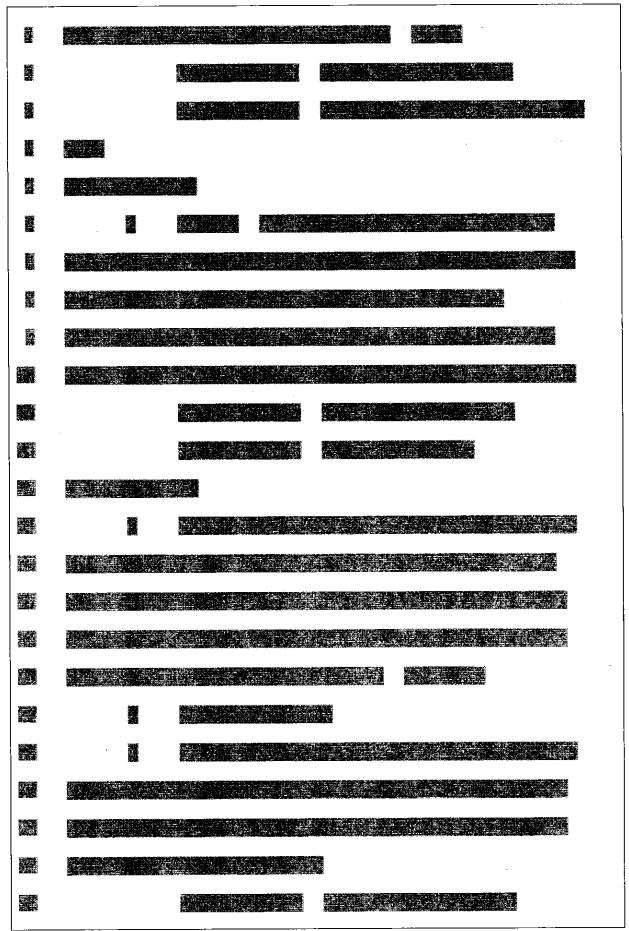
1 that criminal scheme that may not be applicable to other types of schemes or other day-to-day 2 3 operations of regular pharmacies or practitioners. BY MR. HAWAL: 4 5 Well, sir, if a -- if a distributor in 2005 was aware that these red flags were occurring 7 in a given community or related to a given customer, should these have been red flags in 2005 8 9 as well as they were in 2013? MR. STANNER: Object to the form. 10 MR. SATIN: And objection. Don't answer 11 12 that if you're going to disclose non-public information that you obtained while at the DEA. 13 THE WITNESS: I think that they are red 14 15 flags, yes. BY MR. HAWAL: 16 777 灦 -

4

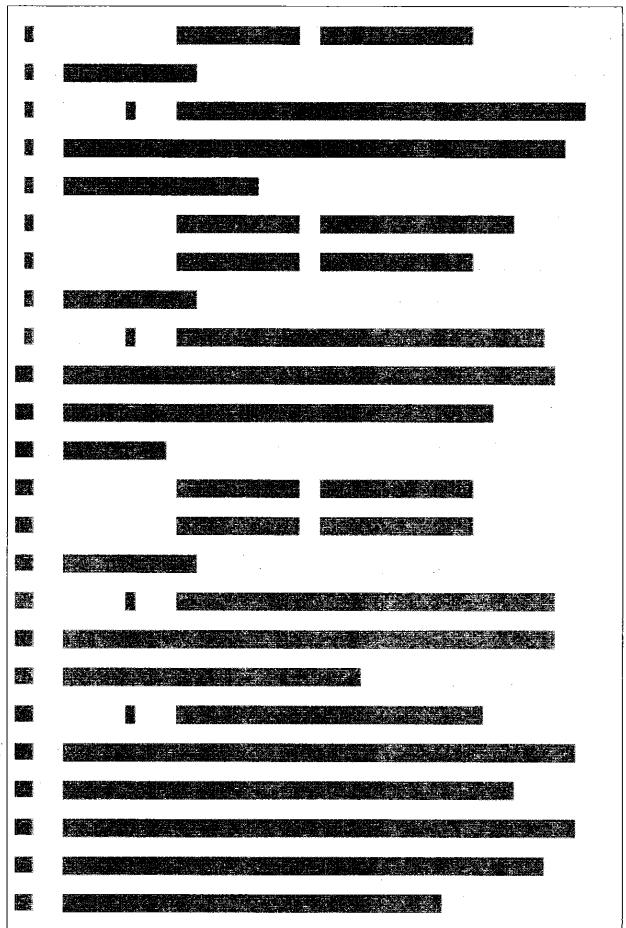
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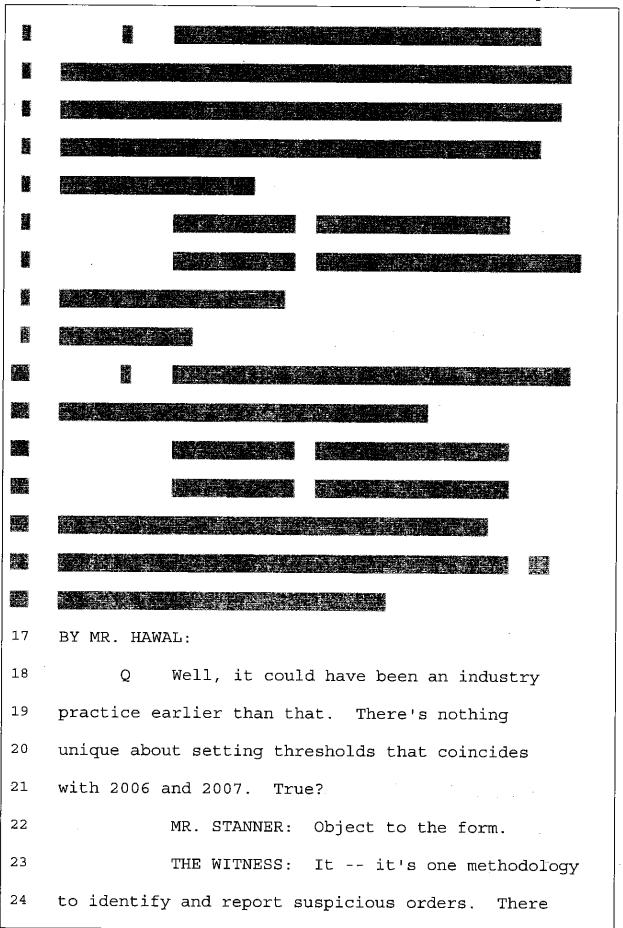


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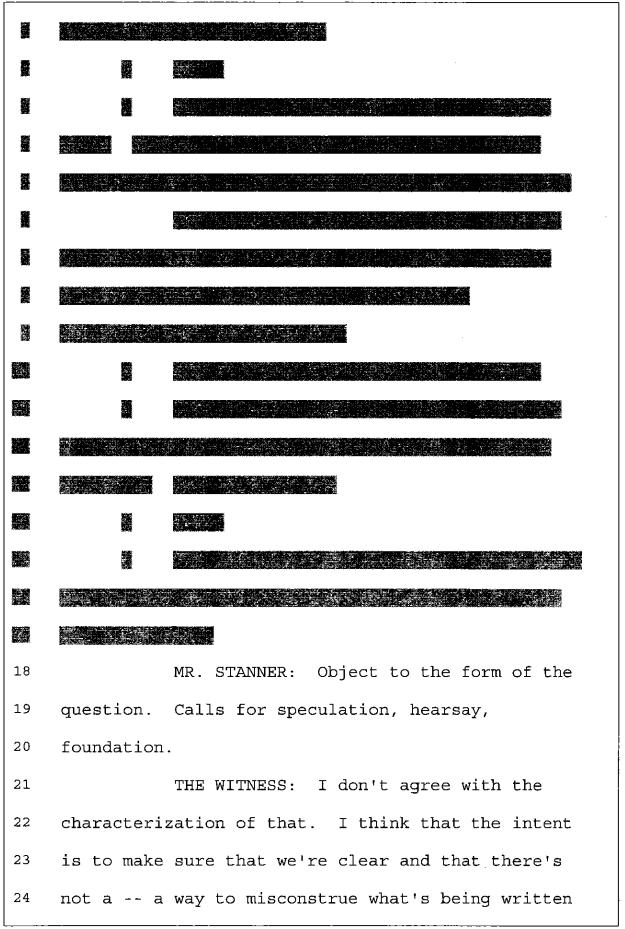
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1 may be others.
 2
                (Plaintiffs' Exhibit No. 10 was
 3
                marked for identification.)
 4
     BY MR. HAWAL:
 5
                Mr. Boggs, I'm going to hand you what's
 6
    been marked as Exhibit 10. This is 301,
 7
     Operations Manual.
 8
                Mr. Boggs, I take it you've seen
 9
    McKesson's Operations Manual for the Controlled
     Substance Monitoring Program?
10
11
                I have.
12
                If you look at page 13 of 16, and the
           Q
13
     numbering is at the top right-hand corner, this --
14
     is this the -- this is the manual for the
15
     Controlled Substance Monitoring Program that was
     enacted as a part of McKesson's obligations with
16
     its 2008 settlement?
17
18
                MR. STANNER: Object to the form of the
19
     question, foundation.
20
                THE WITNESS: It -- it was the -- the
21
     program for -- that was instituted in 2008 for --
22
     BY MR. HAWAL:
籱
i give
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- 1 so that someone -- a third party that may not know
- 2 anything about what transpired would -- would
- 3 understand it with -- with some clarity.
- 4 BY MR. HAWAL:
- 5 Q Well, let's go to the next highlighted
- 6 bullet point. It says: "Refrain from using the
- 7 word 'suspicious' in communications. Once
- 8 McKesson deems an order and/or customer
- 9 suspicious, McKesson is required to act. This
- 10 means all controlled substances sales to that
- 11 customer must cease, and the DEA must be
- 12 notified."
- As a former DEA representative, does it
- 14 trouble you that McKesson is formally instructing
- its employees to refrain from using the word
- 16 "suspicious" in communications because of the
- obligation that follows identifying an order as
- 18 suspicious?
- MR. STANNER: Object to the form of the
- question on several bases. I'll avoid a lengthy
- 21 objection.
- 22 BY MR. HAWAL:
- Q Does that trouble you, sir?
- 24 A I think with my understanding and